

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MICHAEL A. JACKSON,

Plaintiff,

v.

TAYLOR S. YOUNG *et al.*,

Defendants.

Case No. C07-5480RBL/JKA

REPORT AND
RECOMMENDATION

**NOTED FOR:
APRIL 4, 2008**

This 42 U.S.C. § 1983 action has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636 (b) and local Rules MJR 3 and 4. Before the court is plaintiff's motion for default filed February 13, 2008 (Dkt # 56). Two days before the plaintiff's motion was filed the defendants filed a motion to dismiss (Dkt # 53). As a motion to dismiss is pending the motion for default is frivolous. Accordingly the court recommends the motion for default be **DENIED**.

Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure, the parties shall have ten (10) days from service of this Report to file written objections. *See also* Fed. R. Civ. P. 6. Failure to file objections will result in a waiver of those objections for

1 purposes of appeal. Thomas v. Arn, 474 U.S. 140 (1985). Accommodating the time limit imposed
2 by Rule 72(b), the clerk is directed to set the matter for consideration on **April 4, 2008, 2008**, as
3 noted in the caption.

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6 DATED this 11 day of March, 2008.

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8 /S/ J. Kelley Arnold
9 J. Kelley Arnold
United States Magistrate
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